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December 18, 2007

VIA OVERNIGHT MAIL

Magistrate Judge Andrew Peck
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street, Room 1370
New York, NY 10007

Re: National Union Fire Insurance Company v. McEwan, et al.
Index No.: 07 CIV 7515

Dear Magistrate Judge Peck:

We represent the plaintiff in the above-referenced matter. Pursuant to your directive issued during the court conference held on November 30, 2007, please allow the within to serve as the "letter brief" requested regarding diversity jurisdiction.

The plaintiff in this action is National Union Fire Insurance Company of Pittsburgh, PA ("National Union"). National Union brings this action as subrogee and assignee of The Rockefeller Foundation ("Rockefeller"). It is the citizenship of National Union, as subrogee, which is controlling when evaluating whether diversity jurisdiction exists (*Matter of the Complaint of Kreta Shipping, S.A., as Owner of M/V Amphion, for Exoneration from Limitation on Liability* (S.D.N.Y. 1997)). National Union and Rockefeller are both incorporated and maintain a primary place of business in the State of New York. However, defendant Lisa Baker is believed to be a resident of Florida. As such, it is Ms. Baker's residency that serves as the basis for the plaintiff's assertion that venue in the instant Court is proper pursuant to 28 U.S.C. § 1332.

However, diversity is not the only basis upon which this Court is afforded jurisdiction. The plaintiff has asserted a RICO cause of action pursuant to 18 U.S.C.A. § 1962 against all defendants. As such, jurisdiction in the instant court is proper pursuant to 28 U.S.C. § 1331, regardless of whether diversity jurisdiction exists or not.

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Our File No. A0014-1217

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We trust the foregoing is satisfactory to the court. We will be happy to provide any further information that the Court may deem necessary. We also take this opportunity to provide you with a courtesy copy of the Amended Complaint.

Thank you for your consideration.

Very truly yours,

MCELROY, DEUTSCH, MULVANEY & CARPENTER, LLP



Brian W. Keatts

Encl.

cc: Anthony McEwan (via overnight mail with encl.)
Weston Community TLC
Defendant
2262 Adam Clayton Powell Jr. Blvd, Apt. 5H
New York, NY 10030

Cheryl McEwan (via overnight mail w/ encl.)
DIN #: 07G0242
Albion Correctional Facility
Defendant
3595 State School Road
Albion, NY 14411-9399

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Todd D. Greenberg, Esq. (via overnight mail w/ encl.)
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Our File No. A0014-1217

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Lacho Terrazas (via overnight mail w/ encl.)

Defendant

84-47 118th Street

Apt. 3B

Kew Gardens, NY 11415

Lisa Baker (via overnight mail w/ encl.)

Defendant

1334 SW 14th Street

Boca Raton, FL 33486-5305



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No Signature Direct Signature Joint Direct Signature

Required Same as Recipient Both recipient and delivery person required

Vehicle delivery Signature for delivery

Signature for delivery

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